



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter Of: Help-U-Sell Real Estate

File No.: B-259644.2

Date: December 28, 1994

DECISION

Help-U-Sell Real Estate protests the award of a contract to Donald S. Turner by the Department of Housing and Urban Development under solicitation No. H03R94013400000. Help-U-Sell alleges that Turner is not a responsible contractor.

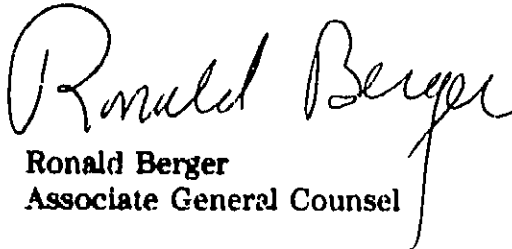
We dismiss the protest.

A determination that a bidder is capable of performing a contract is based, in large measure, on subjective judgments which generally are not susceptible to reasoned review. Thus, an agency's affirmative determination of a contractor's responsibility will not be reviewed by our Office absent a showing of possible fraud or bad faith on the part of procurement officials, or that definitive responsibility criteria in the solicitation may have been misapplied. 4 C.F.R. § 21.3(m)(5); King-Fisher Co., B-236687.2, Feb. 12, 1990, 90-1 CPD ¶ 177. Neither situation exists in this case.

Moreover, the protest appears to be untimely. Our Bid Protest Regulations contain strict rules requiring timely submission of protests. Under these rules, protests based on alleged improprieties in a solicitation must be filed prior to bid opening or the time established for receipt of proposals. Protests not based upon alleged improprieties in a solicitation must be filed no later than 10 working days after the protester knew, or should have known, of the basis for protest, whichever is earlier.

4 C.F.R. § 21.2(a)(2). Further, our Regulations provide that a matter initially protested to the agency will be considered only if the initial protest to the agency was filed within the time limits for filing a protest with our Office. 4 C.F.R. § 21.2(a)(3); Tandy Constr., Inc., B-238619, Feb. 22, 1990, 90-1 CPD ¶ 206.

Here, Help-U-Sell received initial notification of the proposed award on or about September 30, 1994. Help-U-Sell did not initiate its protest with the agency until November 21. Thus, as the protest to the agency appears to be untimely, the subsequent protest to our Office is not for consideration.

A handwritten signature in cursive script, reading "Ronald Berger". The signature is written in black ink and is positioned above the printed name and title.

Ronald Berger
Associate General Counsel